Calendar No. 855

99TH CONGRESS
2d Session

SENATE

REPORT
99-407

AUTHORIZATION OF APPROPRIATIONS FOR THE MARITIME ADMINISTRATION AND FEDERAL MARITIME COMMISSION

AUGUST 14 (legislative day, AUGUST 11), 1986.—Ordered to be printed

---

Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany H.R. 4175]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 4175) to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF BILL

H.R. 4175, as reported, would reauthorize appropriations for the Maritime Administration (MarAd) and the Federal Maritime Commission (FMC) for fiscal year 1987 at the same total level as the President requested. It also includes amendments relating to the student incentive payment program for the State maritime academies, the obligational ceiling on the title XI Loan Guarantee Program under the Merchant Marine Act, 1936, and coastwise coal transport.

BACKGROUND AND NEEDS

MARAD

The primary purpose of MarAd and its programs is to ensure a strong U.S. merchant marine by promoting a U.S.-flag shipping

71-010 O

S263-16

and domestic shipbuilding industry in times of peace, and to ensure the defense readiness of both in the event of war or other national emergency.

The bill authorizes appropriations of $388,193,000 for MarAd for fiscal year 1987. This is the same total amount as the President's request and constitutes a $12,423,000 increase over the fiscal year 1986 appropriations level after reductions mandated by the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings). Within the total figure, however, the bill distributes funds among programs differently than did the administration's proposal so as to permit more funding for State maritime academies than was proposed by the administration.

The administration's request reflected a decision to eliminate Federal support to the State academies. The Administrator of MarAd testified before the Subcommittee on Merchant Marine that there existed a continuing oversupply of merchant marine officers which is being caused, in part, by the continued operation of the State academies.

The Commander of the Military Sealift Command (MSC) testified that the Navy disagreed with MarAd's assessment of the available manpower pool. The Commander believed that there would not be an adequate number of merchant marine officers to meet sealift requirements during times of national emergency.

The Navy and MarAd are currently cooperating in a study to determine the available manpower pool and the actual needs of this Nation with respect to sealift capacity. In light of the uncertainty, the Committee believes that it would be inappropriate to eliminate Federal support for an important source of merchant marine officers, and has provided $9,000,000 for the State academies. This represents a reduction of 25 percent from the fiscal year 1986 authorization level in recognition that all must share in deficit reduction. The Committee intends to monitor developments with respect to this issue and encourages MarAd to explore methods of further reducing costs other than by terminating all Federal support for the State academies.

Other MarAd programs have been reduced in order to stay within the funding limits of the President's request. The Research and Development Program is reduced from $5.5 million to $3.5 million. This reduction is consistent with the administration's plans to terminate the program over time. MarAd's operating expenses for general administration are reduced from $26.824 million to $25.714 million. Finally, the National Security Support Capability Program is reduced from $13.421 million to $9.566 million. This reduction reflects the Committee's denial of the administration's request for an authorization of funds to initiate a multi-year program for dredging access channels essential to the Strategic Sealift Program. Combined with $1.035 million that the administration requested to satisfy obligations incurred by the State academies in reliance on the continuation of Federal financial support, the above reductions have been redistributed to the Maritime Education and Training Account to provide $9 million in Federal support for the State academies.

The administration has also expressed some concern about the provisions of section 4 relating to the obligational ceiling on new

title XI loan commitments for purposes of sequestration under Gramm-Rudman-Hollings. Although the Administration's requests for annual limitations on title XI obligational authority have been repeatedly denied by Congress, the fiscal year 1986 sequestration resulted in a de facto ceiling of $67 million. That ceiling was derived by reducing MarAd's $70 million estimate of demands on the program by 4.3 percent.

The Committee believes that the $67 million ceiling is unreasonably low. The proper estimate of demand for title XI obligations must include applications which have already been submitted and warrant consideration on their merits, and those that are likely to be submitted and warrant consideration in each of the fiscal years 1986 and 1987. Section 4 sets the obligational ceiling, for sequestration purposes only, at $325 million for each of fiscal years 1986 and 1987. This figure includes: (1) $4 million for self-elevating barges; (2) $285 million for nine cruise vessels; (3) $26 million for a dipper dredge and two dump barges; and (4) $12 million for modifications of three C–5 cargo vessels. The Committee believes that this figure is more appropriate than the $500 million ceiling contained in H.R. 4175 as passed by the House of Representatives. The $325 million ceiling provides the flexibility for, but does not require, approval of title XI applications by MarAd. Each application must satisfy the economic soundness test outlined in section 1104(d)(1)(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274(d)(1)(A)). The list of vessels is provided only as evidence of the current demand to justify adjustment of the ceiling, and is not intended as an endorsement of those applications, to serve as a limitation on other applications which may be forthcoming, or to indicate floors or ceilings for the four categories of vessels mentioned.

FMC

The FMC, an independent agency, administers the regulatory provisions of U.S. policy relating to our domestic offshore and foreign ocean-borne commerce. The FMC's main responsibilities include: the regulation of ocean carrier ratemaking in our foreign and domestic offshore trades; investigation on discriminatory rates and practices among shippers, carriers, terminal operators, and freight forwarders; licensing of independent ocean freight forwarders; and passenger vessel certification. The FMC's principal objective is to ensure that shippers transport and consumers receive goods and services at fair and equitable prices, through methods that comport with the shipping laws of the United States.

The bill authorizes $11,940,000 for the FMC. This is the same as the President's request and constitutes a $580,000 increase over the fiscal year 1986 appropriation level after the Gramm-Rudman-Hollings reductions.

The Committee has not proposed any substantive changes to the Shipping Act of 1984 in this legislation. However, testimony before the Subcommittee on Merchant Marine provided a strong indication that various provisions of the Shipping Act may not be achieving the goals contemplated by Congress. The Subcommittee intends to conduct oversight hearings next year on the implementation of the Shipping Act.

Legislative History

On May 16, 1986, the Subcommittee on Merchant Marine held a hearing on reauthorization of MarAd and FMC and related issues. Witnesses included representatives of MarAd, FMC, the MSC, and the State maritime academies.

H.R. 4175 passed the House of Representatives subsequent to the hearing and was referred to the Committee on June 16, 1986. The Committee ordered reported an amendment in the nature of a substitute for H.R. 4175 without objection on July 23, 1986.

Summary of Major Provisions

H.R. 4175 would: (1) Authorize appropriations for the FMC and MarAd; (2) amend the student incentive pay program; (3) impose an obligational ceiling on the title XI Loan Guarantee Program for purposes of the Gramm-Rudman-Hollings sequestration requirements only; (4) authorize the reprogramming of previously appropriated funds to the general administration and operation account; and (5) provide permanent authority for priority loading of U.S.-flag vessels engaged in the coastwise transportation of coal.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 13, 1986.

Hon. John C. Danforth,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4175, a bill to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Rudolph G. Penner, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4175.

2. Bill title: A bill to authorize appropriations for fiscal year 1987 for certain maritime programs of the Department of Transportation and the Federal Maritime Commission.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, July 23, 1986.

4. Bill purpose: H.R. 4175 would authorize appropriations of $388.2 million for activities of the Department of Transportation's

Maritime Administration (MARAD), including $320 million for the payment of obligations incurred for operating differential subsidies (ODS). In addition, the bill would authorize appropriations of $11.9 million for the Federal Maritime Commission (FMC).

H.R. 4175 also would establish an obligation ceiling of $325 million for each of the fiscal years 1986 and 1987 for new guaranteed loan commitments of the Federal Ship Financing Fund.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Authorization level	80.1				
Estimated outlays	64.7	13.0	2.4		

The costs of this bill fall within budget function 400.

Basis of estimate: For purposes of this estimate, it is assumed that the full amounts authorized will be appropriated for fiscal year 1987. Outlays have been estimated on the basis of historical disbursement rates for these programs. The $320 million that the bill authorizes for liquidation of ODS contract authority is not included as part of the authorization level or estimated outlays in the above cost estimate section since spending for this purpose is the result of previously provided contract authority.

Section 4 of the bill would amend the Merchant Marine Act of 1936 by establishing, for purposes of sequestration under the Balanced Budget Act, an obligation ceiling of $325 million in fiscal years 1986 and 1987 for new guaranteed loan commitments of the Federal Ship Financing Fund. There is no ceiling on such commitments in current law, except for the de facto limitation of $66.9 million for fiscal year 1986 established by Presidential order pursuant to the Balanced Budget Act. Fiscal year 1986 loan guarantee commitments to date are about $12 million. Because of the current low demand for loans, the 1987 limit established by the bill is unlikely to be constraining. Therefore, no budget impact is projected for Section 4.

6. Estimated cost to State and local governments: On April 16, 1986, CBO prepared a cost estimate for H.R. 4175, as ordered reported by the House Committee on Merchant Marine and Fisheries on April 9, 1986. This cost estimate is identical to that earlier submission, although the bills differ in areas not affecting the estimate.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deb Reis.

10. Estimated approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

H.R. 4175 will have no additional regulatory impact, and will result in no additional reporting requirements. The legislation will have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

SECTION-BY-SECTION ANALYSIS

SECTION 1—MARAD

(1) Operating differential subsidy

A total of $320 million is authorized for obligations incurred for operating differential subsidy (ODS). This subsidy is the primary means of Federal support for the competitive operation of the U.S.-flag merchant fleet engaged in the foreign commerce of the United States. The administration contemplates an outlay of $320 million which is $20,500,000 more than the estimated outlay for 1986.

The 1987 budget authority includes estimated liabilities for operation of 73 liners and 17 bulkers under agreements with 15 vessel operators. This request provides funds for payments under existing ODS contracts. Payments under new contracts are not included in this figure, nor is specific funding authority provided for the termination or buyout of existing contracts.

(2) Research and development

A total of $3,500,000 is authorized for expenses for research and development activities of the MarAd, an amount $2 million less than the administration requested. These activities include programs that develop concepts, methods, systems, and equipment to improve productivity and operating efficiency in the shipbuilding and ship operating industries. The resultant information and technology help lower costs to both industry and Government. Many of the projects are cost-shared with industry.

During 1986 and 1987, the administration contemplates a transitional period moving toward greater private sector initiatives. It plans to privatize the Computer Aided Operations Research Facility at Kings Point, NY. The administration contemplates no research and development funding after Fiscal Year 1987.

(3) Operations and training

A total of $64,693,000 is authorized for operations and training. The administration contemplated an appropriation request of only $53,343,000 which, when coupled with $9,350,000 it requested be deferred, would have provided a program level of $62,693,000. A similar deferral request was denied last year and the Comptroller General of the United States ruled that the current withholding of these funds is in violation of the Impoundment Control Act. The administration has released $8.5 million to be obligated for the purchase of a vessel.

(A) Maritime education and training

Merchant Marine Academy, Kings Point, NY.—A total of $19,278,000 is authorized for maritime training and education pro-

grams at the Merchant Marine Academy to develop and maintain a 4-year undergraduate program that leads to a bachelor of science degree, a merchant marine officer's license as third mate or third assistant engineer, and a commission as an ensign in the Naval Reserve. These funds will also permit the continuation of a long-range modernization program for renovating and upgrading facilities that are over 40 years old, with particular emphasis on correcting many fire code deficiencies.

State Maritime Academies.—A total of $9,000,000 is authorized as a supplemental to State funding of maritime training and education programs at six State maritime academies—California, Maine, Massachusetts, Michigan, New York, and Texas. The assistance includes: The cost of alterations, repairs, and general maintenance of the training vessels; fuel oil; direct annual payments of $100,000 to each academy; and student incentive payments in support of cadets, amounting to $1,200 per academic year for each subsidized cadet.

Additional training.—A total of $1,135,000 is authorized for administering and operating school programs at the bureau level, for the conduct of supplementary training courses, and for the costs of developing and maintaining current data on the maritime labor forces.

(B) National security support capability

A total of $9,566,000 is authorized for maintaining a national security support capability. This activity provides for the preservation and maintenance of merchant vessels that are retained in the National Defense Reserve Fleet for service as naval and military transport auxiliaries in time of war or national emergency. It also provides for emergency preparedness activities. Funding for programs for the acquisition, maintenance, and upgrading of the Ready Reserve Force, which was established in 1977, is primarily financed by reimbursement from the Department of the Navy. This amount is more than what was appropriated last year, but is less than what the administration requested.

(C) Operations

A total of $25,714,000 is authorized for the general administration of policies and programs of MarAd and for in-house training programs. It should be noted that section 5 provides authorization for an additional $1 million to be reprogrammed from previously appropriated funds.

SECTION 2—FEDERAL MARITIME COMMISSION

The bill contains authorization for $11,940,000 for use by the FMC for fiscal year 1987, the amount requested by the administration.

SECTION 3—STUDENT INCENTIVE PAYMENTS

This section amends section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c) to correct certain problems in the implementation of the student incentive payment program. This program assists individuals attending State maritime academies. At

the present time, students receive these payments for the first two academic years and do not have to enter into a U.S. Naval Reserve agreement until their third year. Some never enter into an agreement and receive a windfall of $2,400 ($1,200 for each of 2 years) without any reciprocal benefit to the Government. The changes to this program will move the commitment and agreement date to the second year. The amendments provide that the student would be given a lump sum payment of $1,200 for the first year. This will be paid in the second year only after the agreement is signed by the student and accepted by the Government.

SECTION 4—TITLE XI

This section imposes, for purposes of the Gramm-Rudman-Hollings sequestration requirements only, an obligational ceiling amount under the title XI Loan Guarantee Program of $325 million for each of fiscal years 1986 and 1987.

SECTION 5—REPROGRAMMING

This section authorizes the reprogramming of $1 million from previously appropriated funds, to the general administration and operation account.

In 1984, Congress earmarked $8.5 million to be used to purchase a replacement training vessel for the New York Maritime Academy. In 1985, the administration deferred the purchase of the vessel pending a reprogramming request, which was denied by Congress. The administration proposed that the expenditure of funds again be deferred in 1986, but the Comptroller General of the United States ruled that this action was in violation of the Impoundment Control Act. The administration has released $8.5 million for obligation to purchase a vessel.

This legislation reduces the operating expenses for the general administration of MarAd by $1 million in fiscal year 1987. Section 5 provides authority to transfer up to $1 million to the operations and training account, should the replacement vessel for the New York Academy be acquired for less than $8.5 million. Any savings in excess of $1 million will be returned to the Treasury.

SECTION 6—COASTWISE COAL TRANSPORT

This section provides permanent authority for priority loading of U.S.-flag vessels engaged in the coastwise transportation of coal by amending section 5 of Public Law 96-387 (46 App. U.S.C. 1121-1). The current priority expires June 30, 1987.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE MERCHANT MARINE ACT, 1936

Section 1103 of that Act

SEC. 1103. (a)–(f) * * *

(g) For the purpose of sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), in each fiscal year 1986 and 1987, a $325,000,000 obligation ceiling is imposed for new guaranteed loan commitments under this section. The total of guaranteed obligations may not exceed the outstanding authorized level provided in subsection (f) of this section.

Section 1303 of that Act

SEC. 1303. (a)–(b)(6) * * *

[(7) Any individual appointed as a cadet to the Academy under paragraph (3), or receiving instruction at the Academy under paragraph (4), (5), or (6), is not entitled to hold any license authorizing service on any merchant marine vessel of the United States solely by reason of graduation from the Academy.]

(7)(A) The Secretary may annually permit, until September 30, 1995, upon approval of the Secretary of State, up to six additional individuals from the Republic of Panama to receive instruction at the Academy, in addition to those individuals appointed under paragraphs (3), (4), (5), and (6).

(B) The Secretary shall insure that the Republic of Panama shall reimburse the Secretary for the cost of such instruction (including the same allowances as received by cadets at the Academy appointed from the United States) as determined by the Secretary.

(C) Any individual receiving instruction at the Academy under this paragraph shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States.

(8) An individual appointed as a cadet under paragraph (3), or receiving instruction under paragraph (4), (5), (6), or (7), is not entitled to hold a license authorizing service on a merchant marine vessel of the United States solely by reason of graduation from the Academy.

Section 1304 of that title

SEC. 1304. (a)–(f) * * *

(g)(1) The Secretary may enter into an agreement, which shall be effective for not more than 4 academic years, with any individual, who is a citizen of the United States and is attending a State maritime academy which entered into an agreement with the Secretary under subsection (d)(1), to make student incentive payments to such individual, which payments shall be in amounts equaling $1,200 for each academic year and which payments shall be—

(A) allocated among the various State maritime academies in a fair and equitable manner;

(B) used to assist the individual in paying the cost of uniforms, books, and subsistence; [and]

[(C) paid by the Secretary to the individual in such payments as the Secretary shall prescribe while such individual is attending such academy.]

(C) paid by the Secretary for the first academic year to the individual in a lump sum of $1,200 after its successful termination and at a time during the second academic year when the individual enters into an agreement accepting midshipman and enlisted reserve status as required under paragraph (2); and

(D) paid by the Secretary for the following academic years as the Secretary shall prescribe while the individual is attending the academy.

(2) Each agreement entered into under paragraph (1) shall require the individual to [apply for midshipman] *accept midshipman and enlisted reserve* status in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve) before receiving any student incentive payments under this subsection.

(3) Each agreement entered into under paragraph (1) shall obligate the individual receiving student incentive payments under the agreement—

(A) to complete the course of instruction at the State maritime academy which the individual is attending, unless the individual is separated by such academy;

(B) to take the examination for a license as an officer in the merchant marine of the United States on or before the date of graduation from such State maritime academy of such individual and to fulfill the requirements for such license not later than 3 months after such graduation date;

(C) to maintain a license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from such State maritime academy of such individual;

(D) [to apply for an appointment as,] to accept if tendered an appointment as, and to serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve), the United States Coast Guard Reserve, or any other reserve unit of an armed force of the United States, for at least 6 years following the date of graduation from such State maritime academy of such individual;

(E) to serve the foreign and domestic commerce and the national defense of the United States for at least 3 years following the date of graduation from the Academy—

(i) as a merchant marine officer serving on vessels documented under the laws of the United States or on vessels owned and operated by the United States or by any State or territory of the United States;

(ii) as an employee in the United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under clause (i) is not available to such individual;

(iii) as a commissioned officer on active duty in an armed force of the United States or in the National Oceanic and Atmospheric Administration; or

(iv) by combining the services specified in clauses (i), (ii), and (iii); and

(F) to report to the Secretary on the compliance by the individual to this paragraph.

(4)–(7) * * *

(h) * * *

THE ACT OF OCTOBER 7, 1980

Section 5 of that Act

SEC. 5. Notwithstanding any other provision of law, any vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall [until June 30, 1987,] have the priority to load at any such ports ahead of any waiting vessels engaged in the export trade of coal produced in the United States: *Provided*, That, the Secretary of Transportation may, if he determines that it is in the national interest, eliminate priority loading, as provided herein, at any such port or ports, and to report such action to the Congress within 30 days.

○